

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Mattias HÄLLBRINK et al.)	Examiner:
)	Unknown
Serial No.	:	10/517,079)	
)	Art Unit:
Filed	:	June 18, 2003)	Unknown
)	
Cnfrm. No.	:	8542)	
)	
For	:	CELL PENETRATING PEPTIDES)	
)	

**PETITION UNDER 37 CFR § 1.182 TO
WITHDRAW HOLDING OF ABANDONMENT
OR ALTERNATIVELY
PETITION UNDER 37 CFR § 1.137(b) TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION**

MAIL STOP PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR § 1.182, applicants hereby petition for withdrawal of the holding of abandonment of U.S. Patent Application Serial No. 10/517,079. On April 23, 2007, applicants' representative received a Notification of Abandonment from the U.S. Patent and Trademark Office ("PTO") in its capacity as a Designated /Elected Office (37 CFR 1.495), indicating that the above-identified application has been abandoned for failure to file a timely response to the Notification to File Missing Requirements, mailed September 19, 2006. Applicants respectfully submit a response was filed and request that the holding of abandonment be withdrawn based on the statement of facts set forth below.

Statement of Facts

A U.S. National Application, based on PCT/IB03/03163, filed June 18, 2003, was mailed to the PTO by Express Mail on December 6, 2004.

A Notification of Missing Requirements, dated May 17, 2005, was received by applicants on May 24, 2005.

On August 9, 2005, applicants' Response to the Notification of Missing Requirements, Statements in Accordance with 37 CFR 1.821, compact disc, and executed Combined Declaration of Power of Attorney forms for all inventors were filed.

Applicants received Notification of Defective Response (sequence listing), dated June 30, 2006.

On July 20, 2006, applicants filed their Second Supplemental Preliminary Amendment and Response to Notification of Defective Response, Statements in Accordance with 37 CFR 1.821, and a compact disc.

On September 7, 2006, Nixon Peabody received a Notification of Defective Response dated September 1, 2006. The notice was entered in Nixon Peabody's docketing system on September 7, 2006 (Declaration of Janice Bowers under C.F.R. § 1.132 ("Bowers Declaration") ¶ 3).

On September 22, 2006, Nixon Peabody received a Notification to Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosure dated September 19, 2006. The notice was entered in Nixon Peabody's docketing system on September 22, 2006 (Bowers Declaration ¶ 4).

On September 25, 2006, Janice Bowers, a paralegal at the firm of Nixon Peabody called Anita Johnson of the PTO regarding receipt of the two notices, mailed September 1 and 19, 2006, requiring sequence corrections (Bowers Declaration ¶ 5). Ms. Bowers was told that the September 19, 2006, notice was to be disregarded and that a notation would be made in PALM to this effect (Id.).

On September 29, 2006, applicants filed a Response to Notification of Defective Response, two substitute compact disc copies, one substitute copy of the computer readable form, Statements in Accordance with 37 CFR 1.825, and Third Preliminary Amendment.

A Notification of Defective Response, dated October 24, 2006, was received by applicants.

On November 22, 2006, applicants filed a Fourth Supplemental Preliminary Amendment and Response to Notification of Defective Response, Statements in Accordance with 37 CFR 1.825, and Substitute Sequence Listing.

Applicants received a Notification of Defective Response, dated February 14, 2007.

On March 14, 2007, a Fifth Supplemental Preliminary Amendment and Response to Notification of Defective Response, Statements in Accordance with 37 CFR 1.825, and Corrected Substitute Sequence Listing were filed.

On April 26, 2007, Nixon Peabody received a Notification of Abandonment dated April 23, 2007. The notice was entered in Nixon Peabody's docketing system on April 26, 2007 (Bowers Declaration ¶ 6).

On May 31, 2007, Ms. Bowers called Ms. Johnson and verified that the April 23, 2007, Notification of Abandonment was based on an alleged failure to respond to notification of missing requirements, dated September 19, 2006 (Bowers Declaration ¶ 7). Ms. Johnson, further indicated that the response, filed March 14, 2007, was still defective with the errors being in PALM as of March 16, 2007 (Id.).

Pursuant to 37 C.F.R. § 1.182, applicants respectfully request that the holding of abandonment be withdrawn. Applicants were explicitly advised by the PTO that it was not necessary to separately respond to both the September 1 and 19, 2006, notices. Moreover, applicants' submission on September 29, 2006, constituted a timely response to both notices to the extent needed. Having done all of this, it is inappropriate to hold the present application abandoned.

Applicants submit the attached Sixth Supplemental Preliminary Amendment to correct the defects in the sequence information mailed on March 14, 2007.

To the extent that the PTO is unwilling to withdraw the Notification of Abandonment, applicants alternatively respectfully request, pursuant to 37 CFR 1.137(b), that present application be revived as being unintentionally abandoned. Pursuant to 37 CFR § 1.137(b)(3), the undersigned states that the entire delay in filing the required reply from the due date for the required reply until the filing of this (grantable) petition, was unintentional.

- 4 -

To the extent a fee is required, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 14-1138.

Respectfully submitted,

Date: September 7, 2007

/Michael L. Goldman/
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